

STATE OF MISSOURI
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT
DEPARTMENT PROCUREMENT AUTHORITY DELEGATION AND PROCEDURES

EFFECTIVE March 14, 2002

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I. LOCAL PROCUREMENT AUTHORITY DELEGATED

- A. Pursuant to 34.100 RSMo, local procurement authority is hereby granted by the Commissioner of Administration to those State of Missouri executive branch departments that are governed by Chapter 34 RSMo. This delegation does not apply to the following that are exempt from Chapter 34 RSMo:

- * Legislative Branch
- * Judicial Branch
- * Lottery Commission
- * Department of Transportation (except data processing, telecommunications, and printing)

A different delegation of authority has been issued that applies to universities and colleges.

- B. By accepting this delegation, the state department acknowledges its ability and agreement to fulfill the requirements of Chapter 34 RSMo as well as the rules and regulations that are delineated in 1 CSR 40-1.010 through 1 CSR 40.1080.
- C. Acceptance of this delegation of local procurement authority shall not preclude the department from submitting any procurement to the Office of Administration, Division of Purchasing and Materials Management (DPMM) for processing.
- D. The authority delegated herein shall be applied to the procurement of supplies in accordance with the requirements of Chapter 34 RSMo and the procedures described in this document.

As defined in 34.010 RSMo, the term "supplies" means: "supplies, materials, equipment, contractual services, and any and all articles or things, except for utility services regulated under Chapter 393 RSMo..."

- E. State departments, through competitive bidding in accordance with 34.040 RSMo, may award:
1. a single Local Purchase Order with a total value of less than \$25,000;
 2. a local contract/price agreement with a total value of less than \$25,000 for an initial contract/price agreement period not-to-exceed 12 months. The department may include renewal options not to exceed 12 months per option in the contract/price agreement. The total value of each option must be less than \$25,000 for each renewal period.
- F. Local Purchase Authority shall not be used for procurements listed below. These procurements must be referred to the DPMM for processing.
1. Supplies available on current department, statewide, or blanket contract/price agreements; unless specifically allowed by the contract terms.
 2. Vehicles
 3. Supplies for which the award of a single Local Purchase Order has a total value of \$25,000 or more.
 4. Supplies for which a series of periodic Local Purchase Orders will have an aggregate value of \$25,000 or more within the same fiscal year.

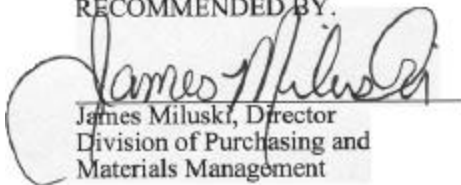
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5. Supplies for which the award of a local contract/price agreement has a total value of \$25,000 or more within the contract/price agreement period not-to-exceed 12 months.
 6. Single feasible source procurements with a value of \$25,000 or more.
 7. Procurements that will utilize lease/purchase financing or lease with purchase option.
 8. Multi-year rental agreements. Agencies may enter into rental agreements for supplies if the period of rental does not exceed 12 months. Renewal options may also be in the rental agreement so long as the options also do not individually exceed 12 months each. No ownership or buy-out can occur at the end of the rental.
 9. Procurements that will utilize a competitive negotiation process as defined in 34.040 and 34.042 RSMo.
- G. The state department may delegate all or part of its local procurement authority to its sub-agencies. However, any state agency or employee assigned responsibility to conduct procurement activities must be furnished with a copy of this document or a state department procedure that stipulates the same requirements. State departments may set forth a more restrictive procedure.
- H. This delegation is subject to random compliance reviews by representatives of the DPMM. The authority granted may be rescinded at any time, in whole or in part, for any individual state department that fails to correct deficiencies noted during the compliance review.
- I. This procedure may be amended or rescinded, as a whole or in part, by the DPMM at any time. When conditions and circumstance permit, the state departments shall be provided with a 30-day advance written notice of any change in this procedure.
- J. Nothing stated in this delegation and procedures shall be construed to confer authority for any purpose or reason contrary to any state law, appropriation, or executive order.

This delegation and procedure is hereby authorized effective March 14, 2002, to remain in effect until rescinded or amended in writing.

RECOMMENDED BY:


James Miluski, Director
Division of Purchasing and
Materials Management

APPROVED BY:


Jacquelyn D. White, Commissioner
Office of Administration

I hereby accept this delegation of authority on behalf of the department and acknowledge the department's ability and agreement to abide by the requirements herein.

SIGNATURE _____
NAME _____
TITLE _____
DEPARTMENT _____
DATE _____

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II. REQUIREMENTS and PROCEDURES

In application of the local procurement authority delegated in Section I of this document, the department must comply with the requirements and procedures outlined in this section.

A. Special Approvals Required

Certain supplies, as indicated below, require review and resource manager approval **prior** to procurement. Resource Manager approval is obtained through two different methods based on the total value of the procurement. Approval for purchases of \$3,000 or less may be obtained off line while purchases that exceed \$3,000 must be approved on-line in SAM II. The approval must be included in the department's documentation for all procurements processed under the Local Procurement Authority.

Audits: All anticipated procurements for auditing services must be reviewed by the State Auditor's Office (573-751-4213). The Auditor's office will respond with a memo rather than an approval number.

Banking and Related Service: All solicitations for banking and related services must be approved by the Treasurer's Office, Accounting and Banking Services Administrator (573-751-9002).

Forms: All new or revised forms, regardless of use, must be approved by the Office of Administration, Forms Management Unit (573-751-2232). This also applies to internal forms created and printed internally. Reprints of previously approved forms will not require approval. (37.330 RSMo)

Printing: Printing requirements shall require **prior** approval from the Office of Administration, State Printing Center in accordance with RSMo 34.170. Prior approval can be obtained by contacting the State Printing Center at 573-751-3307. The State Printing Center will issue a waiver to an agency when a printing request cannot be produced by the State Printing Center. Approvals by State Printing will no longer be applied on-line in SAM II.

Insurance: All procurements for insurance and surety bond premiums require approval from the Office of Administration, Risk Management Unit (573-751-4044).

Missouri Vocational Enterprises: ALL equipment, supplies, and services provided by MVE must be obtained from them unless MVE certifies that such items are not currently available. Contact MVE at 573-751-6663 to determine availability. (34.090 and 217.575 RSMo)

Printing and Copying Equipment: Requirements for the purchase, lease, or rental of any equipment that falls within the types listed below requires approval from the Office of Administration, Forms Management Unit (573-751-2232). (37.350 RSMo)

- All printing equipment
- Copiers capable of full four-color reproduction
- Copiers producing in excess of 60 copies per minute
- Special application copiers

Copiers available from a statewide contract do **not** require pre-approval unless otherwise noted on the notice of statewide contract.

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B. Disposal of Surplus Property

Disposal of surplus property is within the authority and responsibility of the DPMM. Any exceptions require specific prior approval.

If disposing of state property via trade-in allowance or any other method other than taking the property to Surplus Property, a Report of State-Owned Surplus Property (SS-1), MO 300-1249, must be processed and approved by the State Agency for Surplus Property (573-751-3415).

C. Data Processing Equipment and Services

The Office of Information Technology (573-526-7741) is available for consultation with the state agency concerning their needs in the area of data processing. The DPMM will notify the Office of Information Technology of all data processing equipment and services procurements that DPMM will process.

D. Telecommunication Equipment and Services

The OA, Division of Information Services (573-751-1559), is available for consultation with the state agency concerning their needs in the area of telecommunications. The DPMM will notify the Division of Information Services of all telecommunication equipment and services procurements that DPMM will process.

E. Annual Wage Orders

All bids for construction, maintenance, and repair must comply with the requirements for Annual Wage Orders as stipulated in Chapter 290 RSMo. A copy of the Annual Wage Order must be attached to the solicitation document. Annual Wage Orders may be obtained from the Department of Labor and Industrial Relations, Division of Labor Standards at 573-751-3403. Pursuant to 107.170 RSMo, all public works with a cost estimated to exceed \$25,000 require a surety bond.

F. Competition

The state department must solicit competitive bids for each local procurement requirement valued at over \$3,000. The state department must, when possible, obtain a minimum of three (3) competitive bids:

1. The phrase "solicit competitive bids" means that the state department must provide legitimate opportunity for prospective vendors to compete.
2. The act of only identifying prospective vendors for documentation purposes without actually providing those vendors the opportunity to compete by soliciting prices and bid information does not constitute a solicitation of competitive bids.
3. A "no bid" response from a vendor may be counted towards the requirement for three (3) competitive bids provided that all "no bid" vendors could have reasonably been expected to submit a bid.

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G. Methods of Solicitation

The state department may utilize the Request for Quotation Form, #MO300-1224. The state department may also utilize, but is not limited to the use of: fax bids, telephone bids, catalog comparisons, etc.

1. The state department should utilize the Local Purchase Order Bid Record, MO 300-0162, for the recording of bids and no-bids solicited and received.
2. If all bids obtained by the department are unacceptable and time or other circumstances prevent rebidding, the department may refer the procurement to the DPMM for negotiation in accordance with 34.040 RSMo.

H. Specifications

Pursuant to 34.060 RSMo, specifications must be described with generic or functional terminology.

1. Specifications may be based upon brand name descriptions if generic or functional specifications are not possible provided that the phrase "or functional equivalent" is added as an inherent part of the description. If possible, the state department must identify two or more brands equal to the specifications.
2. Specifications, delivery dates, vendor location, etc., shall not be manipulated in order to restrict competition.

In the event the evaluation of bids will be based on subjective criteria in conjunction with price, the subjective criteria and relative weights must be stipulated in the solicitation document.

I. Minority Vendor Participation

The state department must comply with all applicable laws, regulations, and executive orders affecting equal opportunity and nondiscrimination in the selection of contractors.

1. Affirmative action must be taken by the state department to assure that minority-owned and women-owned businesses that are certified by the Office of Administration, Office of Equal Opportunity (OEO) are provided an equitable and fair opportunity to submit bids and proposals and to receive an award. Executive Order 98-21 establishes a goal of awarding at least 10 percent of procurements to minority-owned businesses and 5 percent to women-owned businesses.
2. A minority-owned business must be at least fifty-one percent (51%) owned and controlled by one or more persons who are United States citizens and members of one of the following racial minority groups: Black, American Indian, Hispanic, Asian American, or other similar racial minority group.
3. A women-owned business must be at least fifty-one percent (51%) owned and controlled by women who are United States citizens.
4. The state department must utilize the Certified Minority-Owned Business Enterprise Directory and the Certified Women-Owned Business Directory as a source for identification of potential bidders. The directories are available on the Internet at www.oa.state.mo.us/oao/Supplier_Diversity_Program.html.
5. Agencies should document that bids were sent to or awarded to minority (MBE) and women-owned (WBE) businesses. This information may be requested by DPMM during a Quality Assurance

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Review of the agency. Documenting the resources used to locate MBEs/WBEs and identifying those product/service areas where MBEs/WBEs are not available is beneficial for the OEO in managing the Supplier Diversity Program. The state department may utilize the services and assistance of the OEO (573-751-8130) to further identify and qualify prospective minority and women-owned businesses.

6. Certified minority and women-owned businesses must be utilized for a portion of non-bid business whenever economically feasible. Records of such utilization must be maintained by the state department.
7. The state department must ensure proper dissemination of the requirements for minority and women vendor participation to all sub-department locations that exercise a procurement responsibility pursuant to this delegation of authority.

J. Non-Discrimination and Affirmative Action

Pursuant to Executive Order No. 94-03, the following statement must appear on all contracts/price agreements or purchase orders:

"In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program that shall include:

- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a contractor is found to exist, the state shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, removal from all bidders lists until corrective action is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate."

K. Americans with Disabilities Act

The state department must ensure that all procurements require compliance with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

L. Buy American Preference

Buy American preference will not apply to any procurement estimated to be less than \$25,000. Buy American preference does not apply to services or software procurements regardless of dollar value.

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M. Buy Missouri Preferences

Pursuant to 34.070, 34.073, 34.076, and 34.080 RSMo, preferences must be given to Missouri products and firms.

Pursuant to 34.060 RSMo, all bid requests must contain the following language:

"By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the state of Missouri."

N. Organizations for the Blind and Sheltered Workshops

Pursuant to 34.165 RSMo, a five-bonus point bidding preference must be applied to bids for those supplies manufactured, produced or assembled by nonprofit organizations for the blind and by sheltered workshops that are certified by Department of Elementary and Secondary Education.

Qualified organizations for the blind that are located in Missouri are AlphaPointe Association for the Blind in Kansas City and Lighthouse for the Blind in St. Louis. This preference also applies to qualified organizations for the blind located outside the State of Missouri.

A listing of certified sheltered workshops can be found on the Internet at:
<http://www.dese.state.mo.us/divspeced/shelteredworkshops/swindex.html>.

O. Recycled and CFC Products

Pursuant to 34.031-34.032 RSMo, departments must seek to increase recycling and the utilization of products made from recovered materials, and to eliminate the purchase of products made with halogenated chlorofluorocarbon (CFC). Specific attainment goals are stipulated in 34.031 RSMo and 34.032 RSMo.

1. Products that utilize recovered materials of a price equal to and quality comparable to products made from virgin materials must be sought and purchased, with particular emphasis on recycled oil, retread tires, compost materials, and recycled paper products.
2. For more information on recycling and products made from recovered materials contact the DPMM State Recycling Coordinator at 573-751-3384.

P. Confidentiality of Bids

The state department must not reveal the price(s) or data quoted by any bidder to any other bidder or to any other person until after all quotations are received. Bidders are prohibited from changing quotations or submitting quotations once prices are revealed.

Q. Evaluation of Bids

The state department may utilize subjective criteria in the evaluation of the bids they receive. If subjective criteria is utilized, the criteria and the relative weight of each criteria must be stipulated in the solicitation document.

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The state department must include minority representation on every committee utilized for evaluating bids. Committees of five people or less must have at least one minority member. Committees of more than five people must have at least two minority members. Assistance in recruiting minorities for the role of evaluator may be obtained by contacting the Office of Administration, Office of Equal Opportunity at 573-751-8130.

R. Awards

Pursuant to 34.040 RSMo, all procurements must be awarded to the lowest and best bid.

1. For any procurement with a value that exceeds **\$3,000**, the state department must execute a SAM II purchase order.
2. Local purchase orders must not be split by issuing two or more orders to the same vendor or to multiple vendors in order to circumvent the limitations specified herein.

S. Emergency Procurement

Although an emergency procurement requires immediate action, in accordance with 34.045 RSMo, emergency procurements must be made with as much competition as is practicable under the circumstances.

An emergency condition is statutorily defined as a situation in which "there exists a threat to life, property, public health or public safety or when immediate expenditure is necessary for repairs to state property in order to protect against further loss of, or damage to, state property, to prevent or minimize serious disruption in state services or to ensure the integrity of state records".

A situation shall not warrant an emergency procurement unless the resolution of the condition receives priority over routine operations of the state department. Lack of planning does not constitute an emergency condition.

For any emergency procurement valued at **\$25,000** or more, the state department must, whenever possible, secure a prior approval from the DPMM Assistant Director at 573-751-6693 before obtaining any supplies.

1. If the element of time does not permit the state department to secure a prior approval by telephone, such as a night emergency or a medical emergency, the state department is authorized to procure those supplies necessary to satisfy the emergency condition.
2. For emergency procurements valued at \$25,000 or more, the state department must issue a SAM II purchase order that will route to DPMM for approval. A written explanation of the emergency condition, a description of the supplies ordered, and a copy of the invoice must also be sent to DPMM.
3. If the documentation is acceptable, the purchase order will be approved.

T. Single Feasible Source Procurement

As defined in 34.044, a single feasible source procurement exists when:

- (1) Supplies are proprietary and only available from the manufacturer or a single distributor; or

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- (2) Based on past procurement experience, it is determined that only one distributor services the region in which the supplies are needed; or
- (3) Supplies are available at a discount from a single distributor for a limited period of time.

For all single feasible sources valued at \$25,000 or more, the department must submit a requisition to DPMM for all single feasible source procurements. The requisition must include an explanation as to how the procurement meets the legal definition of a single feasible source, justification for the single feasible source, and documentation from the vendor noting the single feasible source nature of the specific supplies.

For all single feasible sources exceeding \$3,000, for supplies available at a discount, the state department must request a specific procurement delegation from the DPMM Assistant Director at 573-751-6693 in lieu of submitting a requisition.

Single feasible source procurements with a value of less than \$25,000 within the same fiscal year or a period not to exceed 12 months, may be processed by the department in accordance with the following:

1. All single feasible source procurements valued at \$5,000 or more must be posted. The posting should include: title, description, contract/price agreement period, renewal options, supplier, buyer, phone number, and posting date.
2. The file must be documented to explain how the procurement meets the legal definition of a single feasible source, the functionality of the supply that makes it a single feasible source and why the functionality is the only one that will meet the needs of the state department, and documentation from the vendor.

U. Contracting with a Governmental Entity

For procurements with a total value of less than \$25,000, state department may contract with other state departments or governmental entities for supplies or services provided directly by such entity without conducting a competitive bid process, pursuant to 34.046 RSMo.

In the event the procurement is valued at \$25,000 or more, the state department must submit a requisition to the DPMM for processing.

Governmental entities are those who derive their funding from a public tax base; i.e., federal agencies, cities, counties, public school districts, colleges, etc. Quasi-public governmental bodies as defined in 610.010 (4) RSMo are not included in this definition.

V. Cooperative Purchasing, Other Governmental Entity

If the state department desires to participate in, sponsor, conduct or administer a cooperative purchasing agreement to procure supplies or services in excess of \$3,000 in accordance with a contract established by another governmental entity, the state department must submit a requisition to DPMM for processing.

W. Documentation Required

All documentation related to each procurement must be maintained in a centralized manner so that there is a clear audit path linking the solicitation process, evaluation, award, and payment.

1. Pursuant to 34.120 RSMo, the documentation must be preserved as an official public record for a period of five years unless directed otherwise by the DPMM, whichever is longer. The documentation should include the following:

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- a. Copy of signed procurement authorization.
 - b. Copy of signed purchase order.
 - c. Copy of solicitation document.
 - d. List of vendors solicited.
 - e. Copies of all bids received.
 - f. Bid tabulation summary sheet.
 - g. Correspondence concerning the procurement.
 - h. A written record of any phone conversations.
 - i. Evaluation report.
 - j. A written explanation if the order is awarded to anyone other than the low bidder.
 - k. Written justification for the use of a restrictive, proprietary, brand name, or no substitution specification.
 - l. Written documentation describing the emergency condition that existed if bids are not obtained due to emergency conditions.
 - m. Written documentation describing the single feasible source procurement that existed.
2. All documentation related to each procurement must be made available to the public for inspection and review in accordance with 610.021 RSMo.

X. Technical Assistance

The DPMM will provide technical assistance and additional information, if requested, to the state department, such as: names of potential bidders, managerial review, and consultation on procurement and evaluation methods, procedures, and records maintenance.

Technical assistance may be obtained by contacting the DPMM buyer assigned to a particular type of procurement.

Y. Training

The department must ensure that professionalism is obtained and maintained by its procurement staff through an ongoing training program. A training plan must be developed for each member of the state department's procurement staff to keep them knowledgeable of current procurement standards and requirements.

Upon request, the DPMM will provide training to satisfy the individual needs of the state department. Training seminars are also available through various organizations. To obtain information or request training, contact the DPMM Program Review Coordinator at 573-751-1108.

Z. Liability for Violations

Pursuant to 34.150 RSMo, certain state employees may be personally liable for the cost of any supplies, materials, equipment, or contractual services purchased contrary to the provisions of Chapter 34 RSMo or the rules and regulations made thereunder.

AA. Exempt Object Codes

Certain expenditure object codes as listed and defined in the SAM II Chart of Accounts Manual are exempt from the requirements of Chapter 34 RSMo. Refer to your Chart of Accounts for information.

BB. Special Delegations and Acknowledgments

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If the department believes that special circumstances exist that require the use of a different process than those identified herein, the department may request a special delegation of authority, an acknowledgment of grant authority, or the establishment of an expenditure registration.

Such alternative processing authorities must be requested and approved **prior** to entering into contracts or agreements with vendors. The department must provide DPMM with full documentation and justification for their request.